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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

GARY PIERCE - Chairman  
BOB STUMP  
SANDRA D. KENNEDY  
PAUL NEWMAN  
BRENDA BURNS

2011 JAN -4 P 3:25

AZ CORP COMMISSION  
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

JAN 4 2011

DOCKETED BY

*RD*

IN THE MATTER OF THE APPLICATION OF  
ANASAZI WATER CO., LLC FOR  
ADJUDICATION "NOT A PUBLIC SERVICE  
CORPORATION."

DOCKET NO. W-20765A-10-0432

**PROCEDURAL ORDER**

**BY THE COMMISSION:**

On April 29, 2010, in Docket No. W-02350A-10-0163 ("Tusayan Docket"), Tusayan Water Development Association, Inc. ("Tusayan") filed with the Arizona Corporation Commission ("Commission") a rate application using a test year ending December 31, 2009. In its application, Tusayan stated that it was directed to file the application by a Commission letter dated November 16, 2009. Tusayan explained that it does not own any of the facilities used in pumping or distributing water or any other property, plant, or equipment, and that it purchases water from two water companies and bills its customers for the water used. Tusayan stated that each of its 36 customers (5 residential and 31 commercial) receives water from one of two separate distribution systems owned and operated by the two separate water companies, with the serving system determined based on the customer's location. One of the water companies was identified as Hydro Resources, for which the billing rate is \$24.50 per 1,000 gallons. The other water company was identified as Anasazi Water Co., for which the billing rate is \$55.00 per 1,000 gallons. Tusayan stated that it assesses a fee on each bill of \$0.0004 per gallon to cover its administrative costs and did not request a rate increase in its application. On July 19, 2010, Tusayan Ventures, LLC ("T Ventures") was granted intervention in the Tusayan Docket pursuant to a request for intervention filed on July 2, 2010.

On July 21, 2010, in the Tusayan Docket, the Commission's Utilities Division ("Staff") filed two letters issued the same day, one to Hydro-Resources, Inc. ("Hydro") and one to Anasazi Water Company, LLC ("Anasazi"). Each letter thanked the recipient for taking the time to talk with Staff

1 regarding the recipient's relationship with Tusayan, stated that Staff believes that the recipient may  
2 be acting as a public service corporation, asked the recipient to file within 90 days either an  
3 application for a Certificate of Convenience or Necessity ("CC&N") or a request to be adjudicated  
4 not a public service corporation, and stated that failure to take action could result in the filing of a  
5 complaint and a petition for an order to show cause regarding why the recipient should not be subject  
6 to Commission regulation.

7 On October 21, 2010, Anasazi filed, in this docket, an Application for Adjudication "Not a  
8 Public Service Corporation" ("Anasazi Adjudication Application").

9 On November 19, 2010, Hydro filed, in Docket No. W-20770A-10-0473 ("Hydro Docket"),  
10 Hydro-Resources, Inc.'s Application for a Determination That It Is Not Acting as a Public Service  
11 Corporation in Tusayan, Arizona ("Hydro Adjudication Application").

12 On December 2, 2010, in this docket, the Tusayan Docket, and the Hydro Docket (jointly "the  
13 three dockets"), Staff filed a Request for Procedural Conference. In each Request, Staff requested a  
14 procedural conference; stated that the matters in the three dockets are complex and interrelated; and  
15 stated that Staff recommends, at a minimum, suspension of Tusayan's rate application, pending the  
16 resolution of the Anasazi Adjudication Application and the Hydro Adjudication Application.

17 On December 10, 2010, in each of the three dockets, a Procedural Order was issued  
18 scheduling a joint procedural conference for the three dockets to be held on January 4, 2011, at the  
19 Commission's offices in Phoenix. The parties were instructed to be prepared to discuss whether the  
20 three dockets should be consolidated and how the three dockets should proceed.

21 On December 30, 2010, the Town of Tusayan ("Town") filed, in the Tusayan Docket, a letter  
22 advising that the Town is exploring options available for financing and operating its own municipal  
23 water system; stating that the Town was aware of the procedural conference scheduled for January 4,  
24 2011; stating that the Town has a strong interest in any decisions that might be made concerning  
25 water service to its residents; and asking that the Commission not act further on these issues without  
26 the Town's "having a seat at the table to discuss them and provide its input as to how matters should  
27 proceed." The Town did not mention intervention in its letter or otherwise formally request that it be  
28 permitted to participate as a party in any of the three dockets.

1 On January 4, 2011, a procedural conference was held as scheduled at the Commission's  
2 offices in Phoenix, Arizona. Tusayan was represented by Chris Brainard, its contracted Certified  
3 Public Accountant, who verified that he is neither a corporate officer nor an employee of Tusayan  
4 and who was directed that Tusayan needs to select, by Board Resolution, a representative who is  
5 eligible to appear before the Commission on Tusayan's behalf under A.R.S. § 40-243 and Rule 31 of  
6 the Rules of the Arizona Supreme Court. T Ventures, Anasazi, Hydro, and Staff appeared through  
7 counsel. Anasazi, Hydro, and Staff all expressed support for consolidating the three dockets and for  
8 suspending the rate case process while the other issues are resolved. Mr. Brainard expressed support  
9 for consolidating the three dockets, expressed no opposition to suspending the rate case process, and  
10 was informed that Tusayan's Board Resolution must include Tusayan's position on consolidating the  
11 three dockets.<sup>1</sup> T Ventures expressed no objection to consolidating the three dockets or to  
12 suspending the rate case pending resolution of other issues, provided that there are "benchmarks" that  
13 must be met, and the process does not result in excessive delay. No representative for the Town was  
14 present. However, counsel for Hydro advised that he had been informed by the Town that the issue  
15 of intervention was expected to be on the agenda for the Town Council meeting scheduled for  
16 January 5, 2011. Hydro and Anasazi both also asserted that the Town should participate as a party in  
17 the three dockets. No ruling was made on consolidation, pending consideration of Tusayan's  
18 Resolution, and it was determined that another procedural conference would be held in approximately  
19 one month. It was further determined that the Procedural Order scheduling the procedural conference  
20 would also direct the Town to make a filing clarifying its intent as to intervention and would  
21 memorialize the requirement for Tusayan's Resolution.<sup>2</sup>

22 IT IS THEREFORE ORDERED that a **joint procedural conference involving this docket,**  
23 **the Tusayan Docket, and the Hydro Docket** shall be held on **February 7, 2011, at 10:00 a.m.,** or  
24 as soon thereafter as is practicable, at the Commission's offices, Hearing Room #1, 1200 West  
25 Washington, Phoenix, Arizona 85007.

26 IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules

27 <sup>1</sup> Although it may not have been stated in the procedural conference, Tusayan will also be required to include in its  
28 Resolution Tusayan's position on suspending the rate case process pending the resolution of other issues.


<sup>2</sup> The filing requirements for the parties are included in the Procedural Order being issued in the Tusayan Docket.

of the Arizona Supreme Court and A.R.S. § 40-243 with respect to the practice of law and admission *pro hac vice*.

IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized Communications) applies to this proceeding and shall remain in effect until the Commission's Decision in this matter is final and non-appealable.

IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

DATED this 4<sup>th</sup> day of January, 2011.

  
SARAH N. HARPRING  
ADMINISTRATIVE LAW JUDGE

Copies of the foregoing mailed/delivered this 4<sup>th</sup> day of January, 2011, to:

TUSAYAN WATER DEVELOPMENT  
ASSOCIATION, INC.  
P.O. Box 520  
Grand Canyon, AZ 86023

Cynthia Seelhammer, Interim Town Manager  
TOWN OF TUSAYAN  
P.O. Box 709  
Tusayan, AZ 86023

Garry D. Hays  
THE LAW OFFICES OF GARRY D. HAYS, PC  
1702 East Highland Avenue, Suite 204  
Phoenix, AZ 85016  
Attorney for Tusayan Ventures LLC


Janice Alward, Chief Counsel  
Legal Division  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, AZ 85007

Paul L. Brinkmann  
SHORALL MCGOLDRICK BRINKMANN  
702 North Beaver  
Flagstaff, AZ 86001  
Attorney for Anasazi Water Co., LLC

Steven M. Olea, Director  
Utilities Division  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, AZ 85007

Steven A. Hirsch  
Rodney W. Ott  
BRYAN CAVE LLP  
Two North Central Avenue, Suite 2200  
Phoenix, AZ 85004-4406  
Attorneys for Hydro-Resources, Inc.

ARIZONA REPORTING SERVICE, INC.  
2200 North Central Avenue, Suite 502  
Phoenix, AZ 85004-1481

By:   
Debra Broyles  
Secretary to Sarah N. Harpring